

1 **LOREN S. YOUNG, ESQ.**

Nevada Bar No. 7567

2 **LINCOLN, GUSTAFSON & CERCOS, LLP**

ATTORNEYS AT LAW

3 3960 Howard Hughes Parkway, Suite 200

Las Vegas, Nevada 89169

4 Telephone: (702) 257-1997

Facsimile: (702) 257-2203

5 lyoung@lgclawoffice.com

6 Attorneys for Defendant, TARGET CORPORATION

7
8 UNITED STATES DISTRICT COURT

9 DISTRICT OF NEVADA

10 DAVID EKBLAD, an individual,

11 Plaintiff,

12 v.

13 TARGET CORPORATION, a corporation; and,
14 DOES 1-10, inclusive,

15 Defendants.

CASE NO: 2:22-cv-00767

**DECLARATION OF LOREN S.
YOUNG IN SUPPORT OF NOTICE OF
REMOVAL OF ACTION UNDER 28
U.S.C. § 1441(b) (DIVERSITY)**

16
17 I, LOREN S. YOUNG, declare as follows:

18 1. I am an attorney duly licensed to practice law before all the courts of the State of
19 Nevada and the United States District Court for the District of Nevada. I am the Managing Partner in
20 the law firm of Lincoln, Gustafson & Cercos, LLP, attorneys of record for Defendant TARGET
21 CORPORATION (hereinafter, "Defendant" or "Target"). I am personally familiar with the within
22 stated facts and would and could testify based upon personal knowledge of the same, and as to those
23 facts stated on information and belief, I believe them to be true.

24 2. A true and correct copy of the Complaint filed by Plaintiff David Ekblad (hereinafter
25 "Plaintiff") in the District Court of Clark County, State of Nevada, entitled *David Ekblad v. Target*
26 *Corporation; DOES 1-10, inclusive*, Case No. A-21-841897-C ("Complaint"), is attached hereto as
27 Exhibit "A." Plaintiff confirms he is a resident of Los Angeles County, California. *Id.*

28 ///

1 3. A true and correct copy of the Summons that was served with the above-referenced
2 Complaint on Defendant is attached hereto as Exhibit “B.”

3 4. On information and belief, Defendant was served with a copy of the Summons and
4 Complaint on or about October 1, 2021.

5 5. The amount in controversy is not stated in the Complaint. The Complaint states that
6 Plaintiff seeks general damages in excess of \$100,000.00.

7 6. After being served with Plaintiff’s Complaint, Target’s counsel sent Plaintiff a letter
8 on October 14, 2021, seeking a stipulation that Plaintiff’s damages do not exceed \$75,000.00 in
9 exchange for which the matter could remain in state court. Plaintiff was given until October 18, 2021,
10 to so stipulate. Plaintiff has not responded to either the letter. (*Id.*)

11 7. A true and correct copy of Target’s October 14, 2021 letter to Plaintiff’s counsel
12 regarding removal and a proposed stipulation regarding the amount in controversy is attached hereto
13 as Exhibit “C.”

14 8. Defendant Target Corporation filed and served its Demand for Security of Costs
15 pursuant NRS 18.130 on October 21, 2021

16 9. A true and correct copy of Defendant’s Demand for Security of Costs is attached hereto
17 as Exhibit “D.”

18 10. Plaintiff failed to post the bond in response to Defendant’s Demand for Security of
19 Costs, thus prompting Defendant to file its Motion to Dismiss Plaintiff’s Complaint on May 4, 2022.

20 11. A true and correct copy of Plaintiff’s Motion to Dismiss Plaintiff’s Complaint is
21 attached hereto as Exhibit “E.”

22 12. On May 9, 2022, I spoke with Eran Lagstein, Esq., Plaintiff’s counsel in this matter.
23 In response to Defendant’s Motion to Dismiss, Plaintiff posted the bond pursuant NRS 18.130 on May
24 9, 2022 and requested the motion be withdrawn. Plaintiff’s counsel said during the telephone
25 conference that he plans to seeks in excess of \$75,000 in damages in this matter. Based on this
26 representation and confirmation of the alleged damages sought in this matter, Defendant moves for
27 removal within 30 days of May 9, 2022.
28

15. This Notice of Removal is filed less than one (1) year after the commencement of the action.

17. Defendant is serving a written notice of the removal to all adverse parties, including Plaintiff, and will file a copy of the notice with the clerk of the District Court of Clark County, State of Nevada, where this action is currently pending.

Executed on May 16, 2022, in Las Vegas, Nevada.

v. a-e ekblad target atty notes drafts pkdgs federal court 20220509 decl lss mmm.docx

EXHIBIT A

EXHIBIT A

CLERK OF THE COURT,

CLERK OF THE COURT
Alvin B. Hanson

Case Number: A-21-841897-C

GENERAL ALLEGATIONS

1. Plaintiff David Ekblad ("EKBLAD" or "PLAINTIFF") has, at all times relevant to this Complaint, been a resident of Los Angeles County, California.

2. Defendant Target Corporation ("DEFENDANT TARGET") has, at all times relevant to this Complaint, been a corporation incorporated and headquartered in the State of Minnesota.

3. The incident upon which this Complaint is based, took place in Clark County, Nevada.

4. Upon information and belief, PLAINTIFF alleges that DOES 1-10 are each in some way also responsible for his injuries, whether through negligence or in some other actionable manner. PLAINTIFF is informed and believes, and on that basis alleges, that each defendant sued under a fictitious name is in some manner also responsible for the wrongs and damages as alleged below, and in so acting was functioning as the agent, principal, servant, partner, employee and/or employer of the co-defendants, and in performing the actions alleged below, was acting within the course and scope of his or her authority with the permission and consent of co-defendants. PLAINTIFF shall amend this Complaint to state their true identities once same has been ascertained.

FACTUAL BACKGROUND

5. EKBLAD realleges each and every preceding paragraph and incorporates same herein by reference.

6. On February 16, 2021, EKBLAD, while shopping on DEFENDANT TARGET's premises in Las Vegas, NV, slipped and fell on water that was on the floor.

7. As a result, EKBLAD was severely injured, both economically and non-economically.

///

FIRST CAUSE OF ACTION – NEGLIGENCE

(By EKBLAD against all Defendants)

8. EKBLAD realleges each and every preceding paragraph and incorporates same herein by reference.

9. DEFENDANTS owed to EKBLAD the duty of care.

10. DEFENDANTS breached that duty when they allowed, created, and/or permitted to exist, on their floor, and which they own, a dangerous and hazardous condition – i.e., water on the floor. DEFENDANTS, in addition, wholly failed to guard against, protect against, warn against, or otherwise give notice of this dangerous condition.

11. As an actual, direct, and proximate result of DEFENDANTS' negligence, EKBLAD was injured, both economically and non-economically, and suffered damages and injuries, including, but not limited to, incurring medical bills and severe pain and suffering.

WHEREFORE, PLAINTIFF prays for judgment against DEFENDANTS, and each of them, as follows:

1. For general damages in an amount over \$100,000.
2. For special damages in an amount over \$100,000.
3. For prejudgment interest at the lawful rate.
4. For such other compensation and relief as the Court deems just and proper, including costs of suit herein.

Dated: September 29, 2021

LAGSTEIN LAW FIRM, P.C.

/s/ Eran Lagstein
Eran Lagstein, Esq.
Attorneys for Plaintiff,
DAVID EKBLAD

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all causes of action contained in the instant matter.

Dated: September 29, 2021

LAGSTEIN LAW FIRM, P.C.

/s/ Eran Lagstein
Eran Lagstein, Esq.
Attorneys for Plaintiff,
DAVID EKBLAD

EXHIBIT B

EXHIBIT B

SUMM

Eran Lagstein, Esq., State Bar No. 7413
Lagstein Law Firm, P.C.
1801 Century Park East, 24th Fl.
Los Angeles, CA 90067
Tel. 323.330.0507
Fax: 323.330.0508

DISTRICT COURT

CLARK COUNTY, NEVADA

DAVID EKBLAD, an individual,

Plaintiff(s),

-vs-

TARGET CORPORATION, a corporation;
and DOES 1-10, inclusive,

Defendant(s).

CASE NO. A-21-841897-C

DEPT. NO.

SUMMONS - CIVIL

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU
WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS.
READ THE INFORMATION BELOW.**

TO THE DEFENDANT(S): A civil Complaint has been filed by the Plaintiff(s) against
you for the relief set forth in the Complaint.

1. If you intend to defend this lawsuit, within 20 days after this Summons is
served on you, exclusive of the day of service, you must do the following:

- (a) File with the Clerk of this Court, whose address is shown below, a
formal written response to the Complaint in accordance with the rules
of the Court, with the appropriate filing fee.

- (b) Serve a copy of your response upon the attorney whose name and
address is shown below.

SUMMONS.docx/9/29/2021

2. Unless you respond, your default will be entered upon application of the Plaintiff(s) and failure to so respond will result in a judgment of default against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.
3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.
4. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators each have 45 days after service of this Summons within which to file an Answer or other responsive pleading to the Complaint.

Submitted by:

/s/ Eran Lagstein
Eran Lagstein

STEVEN D. GRIERSON
CLERK OF COURT

By: [Signature] 9/30/2021
Deputy Clerk Date

Regional Justice Center
200 Lewis Avenue
Las Vegas, NV 89155

Demond Palmer

NOTE: When service is by publication, add a brief statement of the object of the action. See Nevada Rules of Civil Procedure 4(b).

EXHIBIT C

EXHIBIT C

THOMAS J. LINCOLN*+
RANDALL D. GUSTAFSON*+
THEODORE R. CERCOS*+
CHARLES K. EGAN*
LOREN S. YOUNG+
SHANNON G. SPLAINE+
JILL S. CHILCOAT*
CHRISTIAN W. SCHMITTHENNER*
KATIE McCURDY BRACH*
JORDAN T. NAGER*
RICHARD J. REESE*
KARISSA K. MACK+

DARCIE A. F. COLIHAN*
GENE E. ROYCE*
AMANDA M. BREMSETH*
DANICA J. BRUSTKERN*
PAUL D. BALLOU+
BRITTNI N. BAILUS+
JESSICA W. ROWLAND*
GABRIELLA S. BURDEN*
Hon. MARK B. BAILUS (Ret.)+
LISA XU*
ALEXANDER H. GETMAN*
MELISSA K. MIXER*
MADELINE A. BARRETT*
NICOLE F. DAVIDOV*
MARY A. HUGGINS+

ADMITTED IN ARIZONA+
ADMITTED IN CALIFORNIA*
ADMITTED IN NEVADA+

LINCOLN, GUSTAFSON & CERCOS
LLP

ATTORNEYS AT LAW

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SUITE 200
LAS VEGAS, NV 89169-5968

TELEPHONE (702) 257-1997
FACSIMILE (702) 257-2203

E-MAIL INFO@LGCLAWOFFICE.COM

Founded 1987

October 14, 2021

VIA EMAIL AND FACSIMILE

SAN DIEGO COUNTY OFFICE
550 WEST "C" STREET, SUITE 1400
SAN DIEGO, CA 92101
TELEPHONE (619) 233-1150
FACSIMILE (619) 233-6949

PHOENIX OFFICE
2415 E. CAMELBACK ROAD, SUITE 700
PHOENIX, AZ 85016
TELEPHONE (602) 606-5735
FACSIMILE (602) 508-6099

LOREN S. YOUNG
MANAGING PARTNER
NEVADA

MONICA J. YOON*
OF COUNSEL

Eran Lagstein, Esq.
LAGSTEIN LAW FIRM, P.C.
1801 Century Park East, 25th Floor
Los Angeles, CA 90067
eran@lagsteinlawfirm.com
Facsimile: 323-330-0508

Re: Ekblad, David v. Target Corporation
Your Client: David Ekblad
My Client: Target Corporation
Case No.: A-21-841897-C
DOI: February 16, 2021

Dear Mr. Lagstein:

My firm has been retained to represent Target Corporation in the referenced matter. Please be advised that we intend to file a Notice of Removal to remove this case from the District Court of Clark County, Nevada, to the United States District Court for the District of Nevada, Southern Division.

We will agree to remain in state court, however, if you stipulate that Plaintiff will not seek damages in excess of \$75,000 in any jurisdiction. Please confirm this agreement by signing at the bottom of this letter and returning it to my office via facsimile or electronic mail **before 5:00 p.m. on Monday, October 18, 2021**. If we do not receive a response from you by that date, we will assume that you do not consent to limiting damages in this regard, that you have a good faith belief the

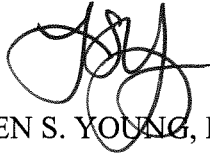
Re: Ekblad, David v. Target Corporation
October 14, 2021
Page 2

case has a value that exceeds the sum or value of \$75,000, exclusive of interest and costs, and we will remove the case accordingly.

Thank you for your attention to this matter. Please do not hesitate to call if you have any questions.

Very truly yours,

LINCOLN, GUSTAFSON & CERCOS, LLP



LOREN S. YOUNG, ESQ.

/mrm

SO STIPULATED AND AGREED

By: Eran Lagstein, Esq.
LAGSTEIN LAW FIRM, P.C.
Attorney for Plaintiff, David Ekblad

 *** Send Results ***

Sending is complete.

Job No. 3838
 Address 13233300508
 Name
 Start Time 10/14 01:49 PM
 Call Length 00'52
 Sheets 2
 Result OK

THOMAS J. LINCOLN*
 RANDALL D. GUSTAFSON*+
 THEODORE R. CERCO*+
 CHARLES K. EGAN*
 LOREN S. YOUNG*
 SHANNON G. SPLAIN*+
 JILL S. CHILCOAT*
 CHRISTIAN W. SCHMITTHENNER*
 KATIE McCURDY KACH*
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 KARISSA K. MACK*

DARCIE A. F. COLIHAN*
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 Hon. MARK B. BAILUS (Ret.)*
 LISA XU*
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 MELISSA K. MIXER*
 MADKLINE A. HARRETT*
 NICOLE F. DAVIDOV*
 MARY A. HUGGINS*

ADMITTED IN ARIZONA*
 ADMITTED IN CALIFORNIA*
 ADMITTED IN NEVADA*

LINCOLN, GUSTAFSON & CERCO LLP

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October 14, 2021

VIA EMAIL AND FACSIMILE

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LOREN S. YOUNG
 MANAGING PARTNER
 NEVADA

MONICA J. YOON*
 OF COUNSEL

Eran Lagstein, Esq.
 LAGSTEIN LAW FIRM, P.C.
 1801 Century Park East, 25th Floor
 Los Angeles, CA 90067
cran@lagsteinlawfirm.com
 Facsimile: 323-330-0508

Re: Ekblad, David v. Target Corporation
 Your Client: David Ekblad
 My Client: Target Corporation
 Case No.: A-21-841897-C
 DOI: February 16, 2021

Dear Mr. Lagstein:

Michelle McCracken

From: Michelle McCracken
Sent: Thursday, October 14, 2021 1:32 PM
To: eran@lagsteinlawfirm.com
Cc: Barbara Pederson; Loren Young
Subject: Ekblad v. Target
Attachments: 20211014_lagstein_mrm_final.pdf

Mr. Lagstein:

Please find a copy of the correspondence dated today from Mr. Young as it pertains to the Eklund v. Target matter attached to this email. Please note that the courtesy of a response is requested by 5:00 p.m. on Monday. Thank you.

Michelle McCracken
Office Manager and Legal Assistant to
Loren S. Young, Esq. - Managing Partner
LINCOLN, GUSTAFSON & CERCOS LLP
Experience. Integrity. Results.

California Nevada Arizona

550 West "C" Street, Suite 1400
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619.233.1150; 619.233.6949 Fax

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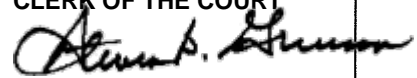
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EXHIBIT D

EXHIBIT D



1 **DMSC**
2 **LOREN S. YOUNG, ESQ.**
3 Nevada Bar No. 7567
4 **LINCOLN, GUSTAFSON & CERCOS, LLP**
5 **ATTORNEYS AT LAW**
6 3960 Howard Hughes Parkway, Suite 200
7 Las Vegas, Nevada 89169
8 Telephone: (702) 257-1997
9 Facsimile: (702) 257-2203
10 lyoung@lgclawoffice.com

11 Attorneys for Defendant,
12 **TARGET CORPORATION**

13 **DISTRICT COURT**
14 **CLARK COUNTY, NEVADA**

15 **DAVID EKBLAD, an individual,**
16 **Plaintiff,**

CASE NO: A-21-841897-C

DEPT. 14

17 **v.**

18 **TARGET CORPORATION, a corporation; and**
19 **DOES 1-10, inclusive,**
20 **Defendants.**

DEFENDANT TARGET
CORPORATION'S DEMAND FOR
SECURITY OF COSTS

21 **TO: DAVID EKBLAD, an individual, Plaintiff; and,**

22 **TO: ERAN LAGSTEIN, ESQ., LAGSTEIN LAW FIRM, P.C., Attorney for Plaintiff.**

23 **NOTICE IS HEREBY GIVEN pursuant to NRS §18.130, that TARGET CORPORATION,**
24 **Defendant in the above-entitled case, hereby demands and requests security from Plaintiff DAVID**

25 **///**

26 **///**

27 **///**

28 **///**

1 EKBLAD, a non-resident of this State, for Defendant's costs and charges which may be awarded
2 herein against Plaintiff in the sum of Five Hundred Dollars (\$500.00).

3 DATED this 20th day of October, 2021.

4 LINCOLN, GUSTAFSON & CERCOS, LLP

5
6 
LOREN S. YOUNG, ESQ.

Nevada Bar Number 7567

7 3960 Howard Hughes Parkway, Suite 200

8 Las Vegas, NV 89169

Attorneys for Defendant,

9 TARGET CORPORATION

10
11 v:\a-ekblad_target\atty notes\drafts\pldgs\20211020_dmsc_nrm.docx

Ekblad v. Target Corporation
Clark County Case No. A-21-841897-C

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21st day of October, 2021, I served a copy of the attached **DEFENDANT TARGET CORPORATION'S DEMAND FOR SECURITY OF COSTS** via electronic service to all parties on the Odyssey E-Service Master List.

I HEREBY CERTIFY that I served a copy of the attached **DEFENDANT TARGET CORPORATION'S DEMAND FOR SECURITY OF COSTS** via United States Mail, from Las Vegas, Nevada, postage prepaid and addressed to the last known address as follows:

Eran Lagstein, Esq.
Lagstein Law Firm, P.C.
1801 Century Park East
25th Floor
Los Angeles, CA 90067



Michelle McCracken, an employee
of the law offices of
Lincoln, Gustafson & Cercos, LLP

V:\A-E\Ekblad_Target\POS\20211021_DMSC_mrm.doc

EXHIBIT E

EXHIBIT E



1 **MTD**
2 **LOREN S. YOUNG, ESQ.**
3 Nevada Bar No. 7567
4 **LINCOLN, GUSTAFSON & CERCOS, LLP**
5 **ATTORNEYS AT LAW**
6 3960 Howard Hughes Parkway, Suite 200
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9 Facsimile: (702) 257-2203
10 lyoung@lgclawoffice.com

11 Attorneys for Defendant, TARGET CORPORATION

12
13 DISTRICT COURT
14 CLARK COUNTY, NEVADA

15 DAVID EKBLAD, an individual,
16 Plaintiff,

17 v.

18 TARGET CORPORATION, a corporation; and
19 DOES 1-10, inclusive,
20 Defendants.

CASE NO: A-21-841897-C

DEPT. 14

**DEFENDANT TARGET
CORPORATION'S MOTION TO
DISMISS PLAINTIFF'S COMPLAINT**

Oral Argument Requested

21 COMES NOW, Defendant, TARGET CORPORATION (hereinafter collectively "Target"),
22 by and through their counsel of record, the law firm of LINCOLN, GUSTAFSON & CERCOS, LLP,
23 and hereby submits the following Points and Authorities in support of its' Motion to Dismiss Plaintiff's
24 Complaint, for failure to post the required security bond pursuant to NRS §18.130.

25 The Motion is brought pursuant to Nevada Revised Statute 18.130(4) and is based upon the
26 attached memorandum of Points and Authorities, the papers, pleadings and records contained in this
27 Court's file, and any arguments of counsel to be presented at the hearing on the matter.

28 DATED this 4th day of May, 2022.

LINCOLN, GUSTAFSON & CERCOS, LLP


LOREN S. YOUNG, ESQ.

Nevada Bar No. 7567

3960 Howard Hughes Parkway, Suite 200

Las Vegas, Nevada 89169

Attorneys for Defendant, TARGET CORPORATION

1 **POINTS AND AUTHORITIES**

2 **I.**

3 **INTRODUCTION**

4 This matter concerns allegations of personal injuries by Plaintiff, DAVID EKBLAD, related
5 to an alleged slip and fall incident that occurred on February 16, 2021 while Plaintiff was inside the
6 Target store located on Blue Diamond Road in Las Vegas, Nevada. Plaintiff reported that when he
7 was near the Toy department, he fell on some liquid and hurt his left ankle. Plaintiff declined medical
8 transport and left the store.

9 Plaintiff filed the complaint on September 29, 2021 naming TARGET CORPORATION as a
10 defendant, asserting a single cause of action for negligence. (*See* Complaint filed September 29, 2021,
11 a true and correct copy is attached hereto as Exhibit “A”). Paragraph 1 of the complaint asserts that
12 Plaintiff is a resident of Los Angeles County, California. *Id.*

13 On October 21, 2021, Target filed and served a Demand to Plaintiff to post a security bond for
14 costs pursuant to NRS §18.130. (*See* Defendant’s Demand, a true and correct copy is attached hereto
15 as Exhibit “B”). As of the filing of this motion, Plaintiff has not filed nor served notice of posting the
16 cost bond. Thus, pursuant to NRS §18.130(4), Defendant respectfully requests the Court dismiss the
17 Complaint, with prejudice. *See Brion v. Union Plaza Corp.*, 104 Nev. 553, 555, 763 P.2d 64 (1988);
18 *Borders Electronic Co. v. Quirk*, 97 Nev. 205, 626 P.2d 266 (1981).

19 **II.**

20 **DISCUSSION**

21 **A. APPLICABLE LAW**

22 NRS §18.130 provides as follows:

23 1. When a plaintiff in an action resides out of the state, or is a foreign
24 corporation, security for the costs and charges which may be awarded
25 against such plaintiff may be required by the defendant, by the filing
26 and service on plaintiff of a written demand therefor within the time
27 limited for answering the complaint. When so required, all proceedings
28 in the action shall be stayed until an undertaking, executed by two or
more persons, be filed with the clerk, to the effect that they will pay such
costs and charges as may be awarded against the plaintiff by judgment,
or in the progress of the action, not exceeding the sum of \$500; or in
lieu of such undertaking, the plaintiff may deposit \$500, lawful money,
with the clerk of the court, subject to the same conditions as required for
the undertaking. The plaintiff, upon filing the undertaking or depositing

1 the security, shall notify the defendant of such filing or deposit, and the
 2 defendant, after receipt of such notice, shall have 10 days or the period
 allowed under N.R.C.P. 12(a), whichever is longer, in which to answer
 or otherwise plead to the complaint.

3 2. A new or an additional undertaking may be ordered by the court or
 4 judge upon proof that the original undertaking is insufficient security,
 and proceedings in the action stayed until such new or additional
 5 undertaking be executed and filed.

6 3. Each of the sureties on the undertaking mentioned in subsection 1
 shall annex to the same an affidavit that the surety is a resident and
 7 householder, or freeholder, within the county and is worth double the
 amount specified in the undertaking, over and above all the surety's just
 8 debts and liabilities, exclusive of property exempt from execution.

9 4. After the lapse of 30 days from the service of notice that security is
 required, or of an order for new or additional security, upon proof
 10 thereof, and that no undertaking as required has been filed, the court or
 judge may order the action to be dismissed.

11 Whether to dismiss a complaint for untimely filing of the undertaking is a discretionary
 12 determination to be made by the trial judge. *See Fouchier v. McNeil Const. Co.*, 68 Nev. 109, 227
 13 P.2d 429 (1951). The Supreme Court recently interpreted the statute concluding NRS 18.130(1) and
 14 18.130(4) does not mandate a time frame in which the security must be filed, but, upon providing
 15 proof that 30 days has passed and no security has been filed, Defendants may move to dismiss the
 16 case. *Biscay v. MGM Resorts Int'l*, 352 P.3d 1148, 1149 (2015). The 30-day requirement is a
 17 prerequisite for dismissal, not for filing the security. *Id.*

18 In *Brion v. Union Plaza Corp.*, Plaintiff posted a bond 68 days after the demand was made,
 19 however, the complaint was dismissed based on a plain reading of the statute that clearly provides that
 20 the court may dismiss the action if the cost bond is not posted within 30 days from the date of the
 21 demand. *Brion v. Union Plaza Corp.*, 104 Nev. 553, 554-555, 763 P.2d 64 (1988). "We have held
 22 that if such a dismissal is granted, the decision will not be overturned absent an abuse of the court's
 23 discretion." *Id.* The Supreme Court held that dismissal of the action was appropriate since Plaintiff
 24 did not misunderstand the bond requirement, but Plaintiff simply failed to file the notice of cost bond
 25 within 30 days. "This lapse does not suffice to justify a reversal of the district court's decision. *Id.* at
 26 555.

27 The Nevada Supreme Court found that dismissal of a complaint, with prejudice, pursuant to
 28 NRS 18.130(4) is not an abuse of discretion where the Plaintiff simply neglected to comply with the

statute, did not have a good faith misunderstanding of the statute, but claimed that the attorney and client was busy. *Borders Elec. Co. v. Quirk*, 97 Nev. 205, 206, 626 P.2d 266 (1981). Although the Plaintiff filed the security costs 19 days late, the dismissal was upheld as Plaintiff never sought an extension of time within which to file the cost bond, either before or after the 30-day time period passed. *Id.*

B. ARGUMENT

As noted, the Supreme Court has concluded that NRS 18.130(1) and 18.130(4) does not mandate a time frame in which the security must be filed, but, upon providing proof that the demand was made, 30 days has passed and no security has been filed, Defendants may move to dismiss the case. *Biscay*, 352 P.3d 1148, 1149 (2015).

Here, Defendant filed and served a Demand on behalf of Target for Plaintiff to post cost bonds pursuant to NRS §18.130 on October 21, 2021. (See Exhibit “B”). As of the filing of this motion, 196 days have passed, and Plaintiff has not posted the required bond nor provided notice of posting the cost bond. Plaintiff has not sought an extension and clearly understands the requirements of NRS §18.130, but has failed to post the required bond. The Complaint should be dismissed.

III.

CONCLUSION

Based on the forgoing, Defendant, TARGET CORPORATION moves this Court for an order dismissing Plaintiff’s complaint against Target, with prejudice. NRS §18.130(4); *Brion*, 104 Nev. 553, 555 (1988); *Borders Electronic*, 97 Nev. 205 (1981); and *Biscay*, 352 P.3d 1148, 1149 (2015).

DATED this 4th day of May, 2022.

LINCOLN, GUSTAFSON & CERCOS, LLP


LOREN S. YOUNG, ESQ.

Nevada Bar No. 7567

3960 Howard Hughes Parkway, Suite 200

Las Vegas, Nevada 89169

Attorneys for Defendants, TARGET CORPORATION

Ekblad v. Target Corporation
Clark County Case No. A-21-841897-C

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 4th day of May, 2022, I served a copy of the attached
DEFENDANT TARGET CORPORATION'S MOTION TO DISMISS PLAINTIFF'S
COMPLAINT via electronic service to all parties on the Odyssey E-Service Master List.

I HEREBY CERTIFY that I served a copy of the attached **DEFENDANT TARGET**
CORPORATION'S MOTION TO DISMISS PLAINTIFF'S COMPLAINT via United States
Mail, from Las Vegas, Nevada, postage prepaid and addressed to the last known address as follows:

Eran Lagstein, Esq.
Lagstein Law Firm, P.C.
1801 Century Park East
25th Floor
Los Angeles, CA 90067



Michelle McCracken, an employee
of the law offices of
Lincoln, Gustafson & Cercos, LLP

EXHIBIT A

EXHIBIT A

Case Number: A-21-841897-C

GENERAL ALLEGATIONS

1. Plaintiff David Ekblad ("EKBLAD" or "PLAINTIFF") has, at all times relevant to this Complaint, been a resident of Los Angeles County, California.

2. Defendant Target Corporation ("DEFENDANT TARGET") has, at all times relevant to this Complaint, been a corporation incorporated and headquartered in the State of Minnesota.

3. The incident upon which this Complaint is based, took place in Clark County, Nevada.

4. Upon information and belief, PLAINTIFF alleges that DOES 1-10 are each in some way also responsible for his injuries, whether through negligence or in some other actionable manner. PLAINTIFF is informed and believes, and on that basis alleges, that each defendant sued under a fictitious name is in some manner also responsible for the wrongs and damages as alleged below, and in so acting was functioning as the agent, principal, servant, partner, employee and/or employer of the co-defendants, and in performing the actions alleged below, was acting within the course and scope of his or her authority with the permission and consent of co-defendants. PLAINTIFF shall amend this Complaint to state their true identities once same has been ascertained.

FACTUAL BACKGROUND

5. EKBLAD realleges each and every preceding paragraph and incorporates same herein by reference.

6. On February 16, 2021, EKBLAD, while shopping on DEFENDANT TARGET's premises in Las Vegas, NV, slipped and fell on water that was on the floor.

7. As a result, EKBLAD was severely injured, both economically and non-economically.
///

FIRST CAUSE OF ACTION – NEGLIGENCE

(By EKBLAD against all Defendants)

8. EKBLAD realleges each and every preceding paragraph and incorporates same herein by reference.

9. DEFENDANTS owed to EKBLAD the duty of care.

10. DEFENDANTS breached that duty when they allowed, created, and/or permitted to exist, on their floor, and which they own, a dangerous and hazardous condition – i.e., water on the floor. DEFENDANTS, in addition, wholly failed to guard against, protect against, warn against, or otherwise give notice of this dangerous condition.

11. As an actual, direct, and proximate result of DEFENDANTS' negligence, EKBLAD was injured, both economically and non-economically, and suffered damages and injuries, including, but not limited to, incurring medical bills and severe pain and suffering.

WHEREFORE, PLAINTIFF prays for judgment against DEFENDANTS, and each of them, as follows:

1. For general damages in an amount over \$100,000.
2. For special damages in an amount over \$100,000.
3. For prejudgment interest at the lawful rate.
4. For such other compensation and relief as the Court deems just and proper, including costs of suit herein.

Dated: September 29, 2021

LAGSTEIN LAW FIRM, P.C.

/s/ Eran Lagstein
Eran Lagstein, Esq.
Attorneys for Plaintiff,
DAVID EKBLAD

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all causes of action contained in the instant matter.

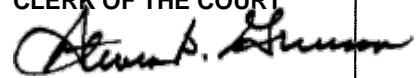
Dated: September 29, 2021

LAGSTEIN LAW FIRM, P.C.

/s/ Eran Lagstein
Eran Lagstein, Esq.
Attorneys for Plaintiff,
DAVID EKBLAD

EXHIBIT B

EXHIBIT B



1 **DMSC**
2 **LOREN S. YOUNG, ESQ.**
3 Nevada Bar No. 7567
4 **LINCOLN, GUSTAFSON & CERCOS, LLP**
5 **ATTORNEYS AT LAW**
6 3960 Howard Hughes Parkway, Suite 200
7 Las Vegas, Nevada 89169
8 Telephone: (702) 257-1997
9 Facsimile: (702) 257-2203
10 lyoung@lgclawoffice.com

11 Attorneys for Defendant,
12 **TARGET CORPORATION**

13 **DISTRICT COURT**
14 **CLARK COUNTY, NEVADA**

15 **DAVID EKBLAD, an individual,**
16 **Plaintiff,**

17 **v.**

18 **TARGET CORPORATION, a corporation; and**
19 **DOES 1-10, inclusive,**
20 **Defendants.**

CASE NO: A-21-841897-C

DEPT. 14

DEFENDANT TARGET
CORPORATION'S DEMAND FOR
SECURITY OF COSTS

21 **TO: DAVID EKBLAD, an individual, Plaintiff; and,**

22 **TO: ERAN LAGSTEIN, ESQ., LAGSTEIN LAW FIRM, P.C., Attorney for Plaintiff.**

23 **NOTICE IS HEREBY GIVEN pursuant to NRS §18.130, that TARGET CORPORATION,**
24 **Defendant in the above-entitled case, hereby demands and requests security from Plaintiff DAVID**

25 **///**

26 **///**

27 **///**

28 **///**

1 EKBLAD, a non-resident of this State, for Defendant's costs and charges which may be awarded
2 herein against Plaintiff in the sum of Five Hundred Dollars (\$500.00).

3 DATED this 20th day of October, 2021.

4 LINCOLN, GUSTAFSON & CERCOS, LLP

5
6 
LOREN S. YOUNG, ESQ.

Nevada Bar Number 7567

7 3960 Howard Hughes Parkway, Suite 200

8 Las Vegas, NV 89169

Attorneys for Defendant,

9 TARGET CORPORATION

10
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Ekblad v. Target Corporation
Clark County Case No. A-21-841897-C

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21st day of October, 2021, I served a copy of the attached **DEFENDANT TARGET CORPORATION'S DEMAND FOR SECURITY OF COSTS** via electronic service to all parties on the Odyssey E-Service Master List.

I HEREBY CERTIFY that I served a copy of the attached **DEFENDANT TARGET CORPORATION'S DEMAND FOR SECURITY OF COSTS** via United States Mail, from Las Vegas, Nevada, postage prepaid and addressed to the last known address as follows:

Eran Lagstein, Esq.
Lagstein Law Firm, P.C.
1801 Century Park East
25th Floor
Los Angeles, CA 90067



Michelle McCracken, an employee
of the law offices of
Lincoln, Gustafson & Cercos, LLP

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